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EXAMINER

BOTTS, MICHAEL K

ART UNIT

PAPER NUMBER

2176

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,271

Applicant(s)

SON ET AL.

Examiner

Michael K. Botts

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/20/03; 1/16/04; 5/28/04; 9/22/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/16/04; 5/28/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This document is the first Office Action on the merits. This action is responsive to the following communications: The Non-Provisional Application, which was filed on June 20, 2003; Information Disclosure Statements (IDS) filed on January 16, 2004 and April 28, 2004, and a Request for Status letter filed September 22, 2005.
2. Claims 1-34 have been examined, with claims 1, 11, 19, and 27 being the independent claims.
3. A Demand for Information is made.
4. Claims 1-34 are rejected.

Information Disclosure Statement

5. An initialed and dated copy of applicant's IDS form 1449, filed January 16, 2004 and April 28, 2004, is attached to this Office Action.

Requirement for Information – 37 C.F.R. 1.105

6. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

This requirement for information is made necessary because of website information posted by the Assignee, 3cim, that identifies what is believed to be the claimed methods, systems, and computer readable mediums. It appears from a reasonable reading of the information posted by 3cim that the company was started in

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1999, and, that from its inception, the company was selling or offering for sale to the public a product that was similar to or identical to the invention now claimed. It also appears that the invention claimed was in public use as at least as early as 1999.

The first page, downloaded by the Examiner on November 18, 2005 from www.3cim.com/demo/loopnet/about.html, states that the company was founded in 1999 and offers "panoramic images on the Web," with more detailed descriptions such that it appears that the claims read on the products that appear to have been in public use in 1999. This page is attached to this Office Action, identified as "3cim 1999."

The second page, downloaded by the Examiner on November 18, 2005, from www.3cim.com/about/asp, states that "3cim was incorporated in March 2000 to provide state of the art Internet imaging solutions designed to enhance revenue improving the buying experience and creating more effective web-based presentations." The web page includes detailed descriptions of the services and products such that it appears that the inventions claimed were in public use at least by 2000. This page is attached to this Office Action, identified as "3cim 2000."

The Examiner does not have knowledge of or ready access to all products and services that were made available to the public by the applicants at the time of the invention, and before. Therefore, the Examiner is not able to fully search the relevant prior art. Such prior art and prior uses, if they exist, are known to the applicants. Identification of these prior art documents will greatly assist the Examiner in the prior art and prior public use examination of this application.

Unless otherwise specified, the information required is for that known by any inventor or the assignee before and up to the time of the application. Also, unless otherwise specified, all requirements for information are to be answered by all inventors, attorneys or agents, assignees, and others associated with inventors or assignees who are or were substantively involved in preparation or prosecution of this application.

It is noted that the time for response to this Requirement is the same as that set for a response to this Office Action – 3 months.

a) *Commercial Databases:* The existence of any particularly relevant commercial computer program, computer code, computer program development documentation, or user or developer documentation that is known to any of the inventors and/or the assignee that could be searched for the following particular aspects of the invention:

1) The method of claim 1, and in particular, the steps of “downloading image files of the image to a local computer connected to the Internet; uploading the image files to a publishing server connected to the Internet and the local computer; determining if any image files are missing with the publishing server; assigning a uniform resource locator (URL) to the image files with the publishing server in order to publish the image files to the Internet.”

2) The method of claim 2, and in particular, the steps of “downloading image files of the image to a local computer connected to the Internet; uploading the image files to a publishing server connected to the Internet and the local computer; determining if any image files are missing with the publishing server;

assigning a uniform resource locator (URL) to the image files with the publishing server in order to publish the image files to the Internet," wherein the image files are a "3DMovie."

3) The method of claim 3, and in particular, the steps of "downloading image files of the image to a local computer connected to the Internet; uploading the image files to a publishing server connected to the Internet and the local computer; determining if any image files are missing with the publishing server; assigning a uniform resource locator (URL) to the image files with the publishing server in order to publish the image files to the Internet," wherein the image files are a "Virtual Tour."

4) The system of claim 11, and in particular, the steps of "a local computer connected to the Internet containing image files for the image; and a publishing server connected to the Internet, the publishing server being configured to upload the image files from the local computer, determine if any image files are missing, and assign a uniform resource locator (URL) to the image files in order to publish the image to the Internet."

5) The system of claim 12, and in particular, the steps of "a local computer connected to the Internet containing image files for the image; and a publishing server connected to the Internet, the publishing server being configured to upload the image files from the local computer, determine if any image files are missing, and assign a uniform resource locator (URL) to the

image files in order to publish the image to the Internet," wherein the image files are a "3DMovie."

6) The system of claim 13, and in particular, the steps of "a local computer connected to the Internet containing image files for the image; and a publishing server connected to the Internet, the publishing server being configured to upload the image files from the local computer, determine if any image files are missing, and assign a uniform resource locator (URL) to the image files in order to publish the image to the Internet," wherein the image files are a "Virtual Tour."

7) The computer readable medium of claim 19, and in particular, the steps of "the computer readable medium containing a program which executes the following procedure: uploading from a local computer image files of the image to a publishing server connected to the Internet; determining if any image files are missing; and assigning a uniform resource locator (URL) to the image files in order to publish the image files to the Internet," wherein the image files are a "3DMovie."

8) The computer readable medium of claim 20, and in particular, the steps of "the computer readable medium containing a program which executes the following procedure: uploading from a local computer image files of the image to a publishing server connected to the Internet; determining if any image files are missing; and assigning a uniform resource locator (URL) to the image files in

order to publish the image files to the Internet," wherein the image files are a "3DMovie."

9) The computer readable medium of claim 21, and in particular, the steps of "the computer readable medium containing a program which executes the following procedure: uploading from a local computer image files of the image to a publishing server connected to the Internet; determining if any image files are missing; and assigning a uniform resource locator (URL) to the image files in order to publish the image files to the Internet," wherein the image files are a "Virtual Tour."

10) The system of claim 27, and in particular, "publishing system comprising means for uploading image and associated files from a local computer to a host server, and assigning a uniform resource locator (URL) to the image files," wherein the image files are a "3DMovie."

11) The system of claim 28, and in particular, "publishing system comprising means for uploading image and associated files from a local computer to a host server, and assigning a uniform resource locator (URL) to the image files," wherein the image files are a "3DMovie."

12) The system of claim 29, and in particular, "publishing system comprising means for uploading image and associated files from a local computer to a host server, and assigning a uniform resource locator (URL) to the image files," wherein the image files are a "Virtual Tour."

b) Search: Whether a search of the prior art was made, and if so, what was searched. This requirement for information is made for prior art searches made up to the time of the response to this Office Action.

c) Related Information: A copy of any non-patent literature, published application, or a patent (U.S. or foreign), by any of the inventors and/or assigned to the assignee, that relates to the claimed invention.

d) Information Used to Draft Application: A copy of any non-patent literature, published application, or patent (U.S. or foreign) that was used in the invention process, such as by designing around or providing a solution to accomplish an invention result.

e) Improvements: Where the claimed invention is an improvement, identification of what is being improved.

f) In Use: Identification of any use of the claimed invention known to any of the inventors and/or to the assignee at or before the time the application was filed notwithstanding the date of the use.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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7. **Claims 2, 3, 12, 13, 20, 21, 28, and 29** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **dependent claims 2, 12, 20, and 28**, the cited claims use the term "3DMovie" in a trademark or trade name context. It is noted that a "3DMovie" is defined in a generic sense in the disclosure. Disclosure, paragraph [0004].

If a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. Ex parte Simpson, 218 USPQ (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. See, MPEP 608.01(v) and 2173.05(u).

If a trademark or trade name appears in a claim and is not intended as a limitation in the claim, the question is presented as to why it is used in the claim. It is not clear from the context of the use of the term whether it refers to a trademark or trade name, or to a generic video stream loaded to a server and made available on the Internet. Therefore, the term "3DMovie," as used in the claims cited above, renders the scope of those claims to be uncertain.

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Regarding **dependent claims 3, 3, 21, and 29** the cited claims use the term “Virtual Tour” in a trademark or trade name context. It is noted that a “Virtual Tour” is defined in a generic sense in the disclosure. Disclosure, paragraph [0005].

If a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. *Ex parte Simpson*, 218 USPQ (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. See, MPEP 608.01(v) and 2173.05(u).

If a trademark or trade name appears in a claim and is not intended as a limitation in the claim, the question is presented as to why it is used in the claim. It is not clear from the context of the use of the term whether it refers to a trademark or trade name, or to a generic panoramic video stream loaded to a server and made available on the Internet. Therefore, the term “Virtual Tour,” as used in the claims cited above, renders the scope of those claims to be uncertain.

Claims Rejections – 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-15, 17-23, 25-32, and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by "Macromedia Dreamweaver 3, Using Dreamweaver," Macromedia, Inc., December 1999, pages 109-115, 139-175, and 281-296 [hereinafter "Macromedia"].

Regarding **independent claim 1**, Macromedia teaches:

A method of publishing an image to the Internet, the method comprising the steps:

downloading image files of the image to a local computer connected to the Internet;

uploading the image files to a publishing server connected to the Internet and the local computer;

determining if any image files are missing with the publishing server;

assigning a uniform resource locator (URL) to the image files with the publishing server in order to publish the image files to the Internet.

(See, Macromedia, pages 150-152, teaches "getting files," which copies files from a remote site to a local computer, and it also teaches "putting files," which copies files from the local site to a remote site, including, specifically, copying files to a remote server.

See also, Macromedia, page 152, teaching that the Dreamweaver program records all FTP file transfer activity and errors may be identified through the "Site FTP log."

See, Macromedia, p. 110, teaching assigning Uniform Resource Locators URLs to establish absolute paths to documents on a remote server. In general, it is noted that images are among the data types taught to be manipulated in Macromedia. Specifically, see, Macromedia, page 201, teaching linking to an image using a URL.)

Regarding **dependent claim 2**, Macromedia teaches:

A method of publishing an image to the Internet as recited in claim 1 wherein the image files are a 3DMovie.

(It is noted that a 3DMovie is defined in the disclosure as follows: "The 3DMovie is a series of images of an object or objects captured from multiple angles. The images are self-running in succession by a single interface on a customer's computer. The images are formed by having the object stationary and the camera changing position in a circular pattern or by having the camera remain stationary while the object is rotated on its central axis while the images are taken. By displaying the images in quick succession, the images appear to be a movie showing the object on a computer screen." Disclosure, paragraph [0004].

See, Macromedia, pages 281-296, teaching publishing of movies. Specifically, Macromedia teaches the insertion of "a java applet, Shockwave movie, Flash movie, ActiveX control, or other audio or video objects in a page" Macromedia, page 281.

It is inherent in Flash and QuickTime movies, as taught by Macromedia, to "display images in quick succession" such that the "images appear to be a movie." As evidence of the inherency of Flash and QuickTime movies being the same as

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"displaying objects in quick succession," see, Chun, R., "Flash 5 Advanced or Windows and Macintosh: Visual QuickPro Guide," Peachpit Press, 2001, Chapter 2.)

It would have been obvious to one of ordinary skill in the art at the time of the invention that the insertion of a movie as an image in the internet would include movies as defined in the present invention as "3DMovies.")

Regarding **dependent claim 3**, Macromedia teaches:

A method of publishing an image to the Internet as recited in claim 1

wherein the image files are a Virtual Tour.

(It is noted that a "Virtual Tour" is defined in the disclosure as follows: "A Virtual Tour is a panoramic image which can typically span 360 degrees. The Virtual Tour is generated from a series of images which are stitched together to form the completed view." Disclosure, paragraph [0005].

See, Macromedia, pages 281-296, teaching publishing of movies.

Specifically, Macromedia teaches the insertion of "a java applet, Shockwave movie, Flash movie, ActiveX control, or other audio or video objects in a page"

Macromedia, page 281.

It is inherent in Flash and QuickTime movies, as taught by Macromedia, to display a 360 degree panoramic view of some place. See, Chun, R., "Flash 5 Advanced or Windows and Macintosh: Visual QuickPro Guide," Peachpit Press, 2001, Chapter 2.) It would have been obvious to one of ordinary skill in the art at the time of

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the invention that the insertion of a movie as an image in the internet would include movies as defined in the present invention as a "Virtual Tour.")

Regarding **dependent claim 4**, Macromedia teaches:

A method of publishing an image to the Internet as recited in claim 1 further comprising the step of logging into the publishing server prior to uploading the image files.

(Macromedia, pages 140-143, teaching the process of setting up and uploading local image files to a server, including teaching the step of logging in.)

Regarding **dependent claim 5**, Macromedia teaches:

A method of publishing an image to the Internet as recited in claim 1 wherein the step of assigning the URL further comprises creating database entries containing the image file information.

(See, Macromedia, pages 155-156, teaching putting files on a remote server.)

Regarding **dependent claim 6**, Macromedia teaches:

A method of publishing an image to the Internet as recited in claim 1 wherein the step of determining missing files further comprises suggesting files that need to be uploaded.

(See, Macromedia, page 152 teaching the identification of missing data after an upload.)

Regarding **dependent claim 7**, Macromedia teaches:

*A method of publishing an image to the Internet as recited in claim 1
wherein the image files contain audio which may include both voice and music.*

(See, Macromedia, pages 281-296, teaching publishing of audio. Specifically, Macromedia teaches the insertion of "a java applet, Shockwave movie, Flash movie, ActiveX control, or other audio or video objects in a page . . ." Macromedia, page 281.)

Regarding **dependent claim 8**, Macromedia teaches:

*A method of publishing an image to the Internet as recited in claim 1
further comprising the step of modifying the image files subsequent to assigning
the URL.*

(see, Macromedia, pages 153-154, teaching synchronizing file versions on remote sites with local file content.)

Regarding **dependent claim 9**, Macromedia teaches:

*A method of publishing an image to the Internet as recited in claim 1
further comprising the step of managing the image files subsequent to assigning
the URL.*

(See, Macromedia, pages 147-175, teaching management of all aspects of remotely stored files.)

Regarding **dependent claim 10**, Macromedia teaches:

*A method of publishing an image to the Internet as recited in claim 1
further comprising the step of storing the image files on the publishing server.*
(See, Macromedia, pages 147-175 teaching all aspects of storing files on a remote server.)

Regarding **independent claims 11, 19, and 27**, independent claims 11, 19, and 27 incorporate substantially similar subject matter as claimed in claim 1, and they are rejected along the same rationale.

Regarding **dependent claims 12, 20, and 28**, claims 12, 20, and 28 incorporate substantially similar subject matter as claimed in claim 2, and they are rejected along the same rationale.

Regarding **dependent claims 12, 21, and 29**, claims 13, 21, and 29 incorporate substantially similar subject matter as claimed in claim 3, and they are rejected along the same rationale.

Regarding **dependent claims 14 and 22**, claims 14 and 22 incorporate substantially similar subject matter as claimed in claim 7, and they are rejected along the same rationale.

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Regarding **dependent claims 15, 23, and 32**, claims 15, 23, and 32 incorporate substantially similar subject matter as claimed in claim 8, and they are rejected along the same rationale.

Regarding **dependent claim 17**, Macromedia teaches:

A system for publishing an image to the Internet as recited in claim 11 wherein the publishing server is configured to allow the user to manage the images.

(See, Macromedia, pages 153-156, teaching a remote user how to update or synchronize local files with those saved on a remote server.)

Regarding **dependent claims 18, 26, and 32**, claims 18, 26, and 32 incorporate substantially similar subject matter as claimed in claim 10, and they are rejected along the same rationale.

Regarding **dependent claims 25 and 31**, claims 25 and 31 incorporate substantially similar subject matter as claimed in claim 9, and they are rejected along the same rationale.

Claims Rejection – 35 U.S.C. 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 24, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macromedia as applied to claims 1, 19, and 27 above, and further in view of Hill, B. "Yahoo! for Dummies," IDG Books Worldwide, Inc., 2001, pages 79-92 [hereinafter "Hill"].

Regarding **dependent claim 16**, Macromedia in view of Hill teaches:

A system for publishing an image to the Internet as recited in claim 11 wherein the publishing server is configured to maintain a publishing account for a user.

(It is noted that there is no specific definition of a "publishing account" in the disclosure. The disclosure discusses a "publishing account" in terms of functions, but these functions are not read as being limiting or definitive of a "publishing account." For this reason, for this action, a "publishing account" is read as a user information page or pages generally available to a user of a server to record user information, including, possibly, monetary debit and credit information.

Macromedia teaches the method of publishing image files on a web server and allowing access to a user to post and revise those files. Macromedia does not specifically teach a user account on the server.

Hill teaches setting up and managing a user account on a Yahoo! server for creation and manipulation of an online storefront located on the Yahoo! server.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify the web server of Macromedia to include a user account access program. A person operating a server and permitting access to that server for other users to post image data would have been motivated to obtain information on such users and, further, would have been motivated to provide such users with access to that account information in order to keep the information current. In addition, a user would be motivated to require such account and access information in order to keep the user's postings secure, but still be able to access the files for updates and revisions.

The result of the combination of the teachings of Macromedia and Hill would be a method of publishing image data on an Internet accessible server with a user account access and information function located on the server.)

Regarding **dependent claims 24 and 33**, claims 24 and 33 incorporate substantially similar subject matter as claimed in claim 16, and they are rejected along the same rationale.

Conclusion

8. The following prior art is made of record and not relied upon that is considered pertinent to applicants' disclosure:

Witek, et al (U.S. Patent 6,253,188), teaching a method for providing classified advertisements over the internet.

LeMole, et al. (U.S Patent 6,009,410), teaching advertising on a World Wide Web server, including 3-D images, video, and audio clips.

Call (U.S. Patent 5,913,210), teaching Internet commerce with multiple users located on web servers.

Fergusson, et al. (U.S. Patent 5,819,092), teaching a visual editing system for commercial online computer service, including online designer subsystems.

Ferreira (U.S. Patent Application Publication 2001/0034661 A1), teaching a virtual city with interactive e-commerce web sites.

Olefson (U.S. Patent Application Publication 2001/0025261), teaching an electronic panoramic interactive tour with optional audio.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Botts whose telephone number is 571-272-5533. The examiner can normally be reached on Monday Thru Friday 8:00-4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MKB


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TECHNOLOGY CENTER 2100